



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

December 30, 2013

By ECF

The Honorable Sidney H. Stein
United States District Judge
500 Pearl Street
New York, NY 10007

The Honorable Victor Marrero
United States District Judge
500 Pearl Street
New York, NY 10007

**Re: *United States v. Robert Ellensohn*, 13 Cr. 498 (SHS)
 United States v. Lesniewski et al., 11 Cr. 1091 (VM)**

Your Honors:

The Government respectfully submits this letter both to **request from Judge Stein an adjournment, on consent, of the sentencing of defendant Ellensohn scheduled for January 8, 2014**, before Judge Stein and in order to **notify Judge Stein and Judge Marrero of certain facts** in order to comply with the Court's procedure regarding sentencings involving multiple defendants in factually-related cases which cases are pending before different judges. This is the first request to adjourn the sentencing date.

The procedure provides in pertinent part that, when the Government is filing a § 5K1.1 motion on behalf of a defendant, the Government is to provide the judge with a "brief statement identifying any prior proceedings in which the defendant has testified before a different judge pursuant to a cooperation agreement." Such statement is to be provided to both the assigned sentencing judge and the judge before whom the defendant testified.

On July 3, 2013, Defendant Robert Ellensohn waived indictment and pled guilty before Judge Stein to a three-count Information charging his participation in the Long Island Rail Road disability fraud scheme. Participants in this scheme were first indicted before Judge Marrero under the caption *United States v. Ajemian et al.*, 11 Cr. 1091 (VM), and ultimately Judge Marrero presided over an indictment charging twenty-one participants in the scheme, including two doctors responsible for more than half of the LIRR disability claims during a relevant time period. Defendant Ellensohn's guilty plea was pursuant to a written cooperation agreement with the Government. Pursuant to that agreement, on July 19 and 22, 2013, Ellensohn testified in the

jury trial against defendants Lesniewski, Baran, and Rutigliano presided over by Judge Marrero. Judge Marrero has conducted sentencings of several participants in the scheme, including Dr. Peter Ajemian, Gary Satin, Maria Rusin, Richard Ehrlinger, Regina Walsh, and, most recently, Joseph Rutigliano.

In addition to providing the above information, the Government writes to request, on behalf of both parties, that the Ellensohn sentencing be adjourned to a convenient date and time in the first two weeks of February 2014 in order to determine whether it will be conducted by Judge Stein or Judge Marrero, and in addition because the additional time will assist both the Government and the defense. In particular, the Government has not yet completed its § 5K1.1 letter, and because of that, the Probation Office's Presentence Investigation Report has been delayed. In addition, defense counsel is starting a trial next week in another matter that is predicted to last four weeks.

Thank you for your consideration of this request, and please notify us if any additional information is required.

Respectfully,

PREET BHARARA
United States Attorney

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cc: David Jacobs, Esq.